

Washington State Criminal Sentencing Task Force (CSTF)
Sentencing Alternatives Subgroup
Meeting Notes - 07.13.21 | 2:15pm-3:45pm | via Zoom

Attendees:

- Nick Allen, *Representing Interests of Incarcerated Persons*
- Rep. Goodman, *Washington State House of Representatives*
- Keri-Anne Jetzer (alt. for Judge St. Clair), *Sentencing Guidelines Commission*
- Mac Pevey, *Department of Corrections*
- Waldo Waldron Ramsey, *Representing Interests of Incarcerated Persons*
- Clela Steelhammer (research & data support), *Caseload Forecast Council*
- Judge Wesley St. Clair, *Sentencing Guidelines Commission*

Guests: Bruce Glant, Corey Patton, Joanne Smieja, Carsen Nies

Facilitation Team: Chris Page, Molly Stenovec, Amanda Murphy

WELCOME & AGENDA REVIEW

Chris welcomed members and thanked them for their willingness to participate in an additional subgroup. He then reviewed the agenda and gave a few updates about logistics:

- As per Task Force operating procedures, chats will go to the meeting host only.
- Guests (non-members and alternates) are welcome to observe meetings and submit comments and questions relevant to the work of the subgroup via chat. The facilitation team will include those comments and questions in the meeting notes.

SCOPE OF THIS WORKGROUP

Chris provided a brief overview of the purpose and scope, as well as proposed workplan, for this workgroup.

Purpose and scope:

- At the June 17th CSTF meeting, the Grid Subgroup reported on its progress and suggested forming a subgroup to focus specifically on alternatives to confinement. This would allow the Grid Subgroup to continue its work on the grid while allowing some individuals to focus specifically on sentencing alternatives.
- Specifically, this subgroup would examine how existing alternatives are working, what changes (if any) make sense, what other states and counties have in terms of alternatives to confinement, and how alternatives can be incorporated into the grid.

Workplan:

- This subgroup will meet for 1.5 hours every other week. Molly has scheduled meetings for July and will work to find a recurring time.
- Each meeting will focus on a current sentencing alternative, with one meeting to review county diversion programs. For each alternative, the subgroup will consider:
 - Eligibility requirements

- Demographics (who receives alternatives? Who has them revoked and under what circumstances?)
- What’s working well, challenges, and opportunities for improving outcomes

Discussion of additional programs and topics for further discussion to include in subgroup workplan:

- Other programs/alternatives available elsewhere in the country
- Examine the parameters of programs (i.e., should the First Time Offender Waiver be available for second+ chances?)
- Addressing disparity across counties (i.e., use of court-authorized alternatives vary by county, similar incidents may correspond with charges of differing seriousness level county by county)
- Include Department of Corrections (DOC) initiated programs, such as the Community Parenting Alternative
- How alternatives can fit into the sentencing grid
- Explore how programs and alternatives fit together in practice? In what ways do the programs and alternatives support individuals well?
- Review past assessments and evaluations of alternatives
- Consider liability of the entity overseeing and/or implementing the alternative and program
- Examine the boilerplate conditions for community supervision, as well as issues related to the judgment and sentencing forms
- Consider developing a recommendation creating trauma assessment

The subgroup spent some time discussing its name. After some consideration of “alternatives to confinement subgroup,” the group settled on “Sentencing Alternatives Subgroup.”

INTRO TO ALTERNATIVES

Senator Dhingra gave an overview of the new Mental Health Sentencing Alternative and lessons learned from creating it that could assist the Sentencing Alternatives Subgroup.

Takeaways:

- King County was one of the first courts in the country with a mental health sentencing alternative. It started small, initially available to individuals with specific offenses, and expanded to eliminate all restrictions based on criminal history. Eligibility is based on individual behavior, considering each person’s unique circumstances and needs. The court must consider the victim/survivor and have a plan for individual accountability, which could include a mix of confinement and community supervision.
- Sen. Dhingra encouraged the group to recommend a “risk-needs-responsivity” screening process to determine eligibility for alternatives. Key components of Risk Needs Responsivity (RNR):
 - Assessment should be conducted in a culturally sensitive and appropriate manner

- Static and dynamic factors: static factors include unchanging information, i.e., criminal history; dynamic factors include an individual's willingness to participate in treatment
- Identify opportunities and mechanisms to identify and reduce implicit bias
- **Q:** I would like to hear more about trauma assessments...who can conduct these in a way that alleviates concerns about how results may be used against an individual?
- **R:** Trauma assessments should be done as early in the process as possible so that treatment can occur as follow up to the period of booking and the treatment plan can be adjusted as needs change. Additional considerations: what the process and setting for the assessment look like

HIGH-LEVEL CONSIDERATIONS

Clela Steelhammer gave a brief overview of existing Sentencing Alternatives ([link to document presented](#)). The subgroup then had an opportunity for clarifying questions and discussion.

Takeaways:

- Some expressed concern about the hearings determining whether an alternative should be revoked and possible disparity regarding revocation of alternatives.
- Creative sentencing alternatives and programs can often be found in therapeutic courts
- Potential characteristics to look at for each alternative:
 - Opportunities for increasing eligibility
 - Based on RNR, with a validation tool
 - Sentences can be a mix of confinement, programs, and alternatives to incarceration
 - Opportunities to reduce barriers to access these alternatives/programs
- Entities (i.e., the courts and DOC) that can authorize and oversee the program

WRAP-UP, NEXT STEPS

- The subgroup will focus on the Parenting Alternative (Family & Offender Sentencing Alternative) at the next meeting.
- Molly will schedule a recurring meeting.

Resources/Examples mentioned throughout the meeting include:

- Center for Court Innovation (<https://www.courtinnovation.org/publications>)
- King County Trauma Assessment Program
- Council of State Governments
- Washington State Institute for Public Policy – conducting an assessment of the Drug Offender Sentencing Alternative (due November 2022)

ADJOURN

APPENDIX: COMMENTS/QUESTIONS FROM GUESTS

Will this working group look at the recommendations made by the DOC in its 2021-2023 Budget Reduction Strategy? The DOC recommended the elimination of lifetime supervision and the modification of failure to register offenses to be unranked, non-sex offenses in order to reduce incarceration time. *(Joanne Smieja)*

Considerations of alternative charges and sentencing for crimes that don't harm anyone as Representative Goodman indicated a couple of weeks ago in one of the regular meetings.

I would like to see the alternatives would be diversionary in nature, with no jail or prison time, and would require counseling and education. It only would apply to first time offenders of like crimes.

A maximum of 24 months of Community Supervision for victimless sex crimes and violent sex crimes which result from law enforcement online Adult Dating Site Stings.

It would also be retroactive and should release individuals, (first time offenders), that have been convicted and incarcerated because of these types of online Adult Dating Site. It would apply to ALL crimes that harm no one, including sex and violent sex crimes.

My advocacy work started with concerns over the questionable WSP Net Nanny stings which are coming under review but has expanded to other crimes and sentencing which harm no one.

Thank you for your consideration. *(Bruce Glant)*

Can the First Time Offense Waiver be modified to include some sex offense convictions that are non-violent and are not crimes against a person? For example, sex offense convictions related to possessing and viewing depictions. Today there are millions of images available online that can be accessed without any special technology. I'm especially concerned about young adults, 18-24 years old, who may view or download these images without realizing that it is illegal to do so.

I'd like to add that for approximately 90% of all people convicted of possessing or viewing illegal depictions, this is their first offense. Once caught and provided with treatment, less than 5% recidivate. *(Joanne Smieja)*

Email to the facilitation team after the meeting (shared with permission):

I would REALLY like to be a participating member of this committee if that is at all possible.

There is so much talk about sex crimes the charges, sentences, lifetime supervision, and lifetime registry that doesn't work yet these crimes are NEVER considered in discussions of sentencing alternatives, reductions of charges, or sentences, regardless of the surrounding circumstances of the crime.

I've witnessed confirmational bias by both prosecutors and judges which result in harsher charges, convictions, and sentences of these individuals, and much of it because of the classification and seriousness level of the crime regardless of whether it is a hands-on or victimless crime.

I don't remember who said it in the meeting today, but I think it was judge Sinclair that a sentence can be determined by whether the judge had or didn't have a cup of coffee that morning..... That can be applied to charging and convictions in many cases.

Sex crimes are treated punitive in nature, especially those against children. I am not condoning crimes against children, or sex crimes in general, but I do think these individuals, regardless of their type or level of sex crime should have someone from this arena included on these committees to stand up them. People make mistakes and should be given the opportunity as others to change and have the lifetime consequences placed on their backs removed.

I represent a coalition of individuals and their families whose lives have been destroyed, (buried alive) from a victimless sex crime against fictitious minors/children. From this I have become engrossed in the web surrounding sex crimes be it hands on, victimless, depiction driven; you name it. I have seen so much injustice and irrationality when it comes to the treatment of sex crimes.

I heard Senator Dhingra and Representative Goodman put it so eloquently today about alternatives to incarceration through treatment of counseling and education. Judge Saint Clair himself mentioned how he's made so many mistakes and has needed several chances to right himself. I know this is not in reference to sex crimes, but the philosophy is still the same.

Many have made improvements in their lives, and yet are never able to remove the restrictions or labels placed upon them due to our common treatment of sex crimes against minors/children, and other sex crimes as well. These individuals are tracked for life, regardless of inroads and changes they've made to themselves. They're denied loans, housing, and even jobs because of their branding.

This group should be entitled to representation in these discussions. For that reason, I ask the committee to consider to include me in at least the "Sentencing Alternatives Committee" discussions.

Thank you. (*Bruce Glant*)